

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KEITH LATIMER,

Plaintiff,

v.

STEVEN HAMMOND, et al.,

Defendants.

CASE NO. C18-5884 RBL

ORDER

THIS MATTER is before the Court on Plaintiff Latimer's Motion for Leave to proceed *in forma pauperis*, supported by his proposed civil rights complaint [Dkt. # 1]. Latimer has also filed a Declaration regarding his indigency. He claims an annual income of \$40,000, resulting in monthly take home pay of \$3500.

The standard governing *in forma pauperis* eligibility under 28 U.S.C. § 1915(a)(1) is "unable to pay such fees or give security therefor." A person is eligible if they are unable to pay the costs of filing and still provide the necessities of life. *See Rowland v. Cal. Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 203 (1993) (internal quotations omitted).

Latimer has failed to provide evidence of indigency sufficient to merit leave to proceed *in forma pauperis*. Despite substantial monthly expenses and no savings, Latimer's employment

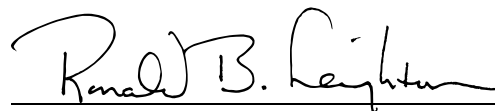
1 provides him \$3,500 monthly. He also apparently has assets including a car and a motorcycle.
2 The Court allows litigants to proceed *in forma pauperis* only when they have sufficiently
3 demonstrated an inability to pay the filing fee. This generally includes incarcerated individuals
4 with no assets, and persons who are unemployed and dependent on government assistance. *See,*
5 *e.g., Ilagan v. McDonald*, 2016 U.S. Dist. LEXIS 79889, at *2 (D. Nev. June 16, 2016) (granting
6 petition based on unemployment and zero income); *Reed v. Martinez*, 2015 U.S. Dist. LEXIS
7 80629, at *1, 2015 WL 3821514 (D. Nev. June 19, 2015) (granting petition for incarcerated
8 individual on condition that applicant provides monthly payments towards filing fee).

9 It does not include those whose access to the court system is not blocked by their
10 financial constraints, but rather are in a position of having to weigh the financial constraints
11 pursuing a case imposes. *See Sears, Roebuck & Co. v. Charles W. Sears Real Estate, Inc.*, 686 F.
12 Supp. 385, 388 (N.D. N.Y.), *aff'd*, 865 F.2d 22 (2d Cir. 1988) (denying petition to proceed IFP
13 because petitioner and his wife had a combined annual income of between \$34,000 and
14 \$37,000). Latimer concedes he has a \$40,000 annual income. He has failed to demonstrate a level
15 of economic necessity similar to those who have received IFP status.

16 For this reason, Latimer's Motion for Leave to Proceed *in forma pauperis* [Dkt. #1] is
17 DENIED. He shall pay the filing fee or voluntarily dismiss his claims within 21 days of this
18 order. Otherwise, this matter will be dismissed without further notice.

19 IT IS SO ORDERED.

20 Dated this 9th day of November, 2018.

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23 Ronald B. Leighton
24 United States District Judge